



Exempt Action Final Regulation Agency Background Document

Agency name	Board of Housing and Community Development
Virginia Administrative Code (VAC) citation	<u>13 VAC 5-63</u>
Regulation title	Virginia Uniform Statewide Building Code
Action title	Amend and Update Virginia Uniform Statewide Building Code
Final agency action date	July 26, 2010
Document preparation date	August 17, 2010

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA), the agency is encouraged to provide information to the public on the Regulatory Town Hall using this form.

Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Summary

Please provide a brief summary of all regulatory changes, including the rationale behind such changes. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

The Virginia Uniform Statewide Building Code (USBC) is a regulation governing the construction, maintenance and rehabilitation of new and existing building and structures. The USBC uses nationally recognized model building codes and standards produced by the International Code Council and other standard-writing groups as the basis for the technical provisions of the regulation. Every three years, new editions of the model codes become available. At that time, the Board of Housing and Community Development initiates a regulatory action to incorporate the newest editions of the model codes into the regulation through the publishing of a proposed regulation. Those affected by the regulation then review the proposed regulation to assure that the newest model codes and standards reflect the minimum requirements necessary for buildings and structures. After the publishing of the proposed regulation, the board establishes a comment period for the acceptance of code change proposals to modify the model codes or standards or any provisions of the entire regulation. Code change proposals are assimilated into a compilation document containing a staff evaluation of each proposal and the compilation document is reviewed by client groups during a second comment period and additional comment on each proposal is accepted. A public hearing is also held. The board then considers all comments on all proposals and develops a final regulation to complete the regulatory process.

The changes comprising the final regulation are divided into two categories: (a) those changes necessary to match changes in state law where no agency discretion is involved under the exemption in the Virginia Administrative Process Act (VAPA) at § 2.2-4006(A)(4)(a) of the Code of Virginia, and (b) those changes based upon proposals or public comment received by the Board during the public comment period after the publishing of the proposed regulation under the exemption in the VAPA at § 2.2-4006(A)(12) of the Code of Virginia. The changes comprising the final regulation are described below:

Changes Under the Exemption in the VAPA at § 2.2-4006(A)(4)(a) of the Code of Virginia to match changes in state law where no agency discretion is involved.

13 VAC 5-63-70 D: State law was amended by Chapter 66 of the 2010 Acts of Assembly to clarify that the fee levy collected by local building departments is for all permits issued under the USBC. To implement the legislation, the term “building” before the term “permit” was stricken in the final regulation.

13 VAC 5-63-80 E: State law was amended by Chapter 341 of the 2010 Acts of Assembly to clarify that a mechanic’s lien agent may be added or changed after a building permit under the USBC is issued. The final regulation adds a note to the permit provision of the USBC to reference the legislation.

13 VAC 5-63-190 E and 500 E: State law was amended by Chapter 63 of the 2010 Acts of Assembly to permit any person aggrieved by a decision of the local building department to appeal to a local board of appeals. The final regulation correlates this legislative change with the appeal provisions of Parts I and III of the USBC.

13 VAC 5-63-220 N: State law was amended by Chapter 296 of the 2010 Acts of Assembly to address temporary family health care structures, which are subject to this regulation and the Virginia Industrialized Building Safety Regulations (13 VAC 5-91). The legislation states that placing the structures on a permanent foundation is not required or permitted. The final regulation adds consistent language to the site work section of the regulation to correlate with the legislative language.

Changes Under the Exemption in the VAPA at § 2.2-4006(A)(12) of the Code of Virginia based on proposals or public comment received by the Board of Housing and Community Development.

13 VAC 5-63-20 D 1: Clarifies that exempt wiring and equipment may be on either right-of-ways or private property as long as the provider has rights of occupancy and entry

13 VAC 5-63-20 D 2: Clarifies that while manufacturing and processing machines are exempt from the regulation, any hazardous materials associated with the machines are not exempt.

13 VAC 5-63-20 D 7: Clarifies that while work on federal property is generally exempt from the regulation, underground storage tank installations are required by Federal law to comply.

13 VAC 5-63-30 C and 200 A: Adds a definition of “change of occupancy” in § 200 A and correlates the use of the new definition in § 30 C to require that any change in the purpose or level of activity in a building which results in a change in the application of the regulation is subject to the applicable requirements.

13 VAC 5-63-30 K 6: Includes the International Residential Code in the list of model codes where testing requirements and requirements for the submittal of plans are used as part of the requirements of the regulation.

13 VAC 5-63-80 B 2: Limits the accessory building permit exemption to only one story buildings while expanding the square footage from 150 to 200 and clarifies that the exemption does not apply to factory uses with combustible materials or to hazardous uses.

13 VAC 5-63-80 10: Clarifies the permit exemption for replacement windows which are of a similar size and operation.

13 VAC 5-63-160 F: Adds language addressing the issuance of a certificate of occupancy for an existing building from the records of the local building department.

13 VAC 5-63-200 A, 13 VAC 5-63-220 P, 13 VAC 5-63-350 Z and 13 VAC 5-63-520 S: Adds definitions and requirements for aboveground liquid fertilizer storage tanks with a capacity of 100,000 gallons or more to prevent spills and structural collapse.

13 VAC 5-63-200 B: Adds a definition of “ambulatory health care facility” to limit the application of the regulation to only those facilities licensed by the Department of Health as outpatient surgical hospitals.

13 VAC 5-63-210 C, D, E, G and H: Rewords the classification requirements for hospice and assisted living facilities and requires new small assisted living facilities to provide a sprinkler system if caring for over five persons not capable of exiting on their own and requires that such residents be located on the ground floor of the facility. Retains the existing requirements for group homes.

13 VAC 5-63-210 M 3-6, 40, 41, 43, 46-52, 54 and 55: Replaces the existing requirements for wall bracing for wind loads in new single family homes, duplexes and townhouses with requirements which have been approved for the 2012 edition of the International Residential Code (IRC), including a simplified method of wall bracing for homes of average size and configuration.

13 VAC 5-63-210 M 7 and 13 VAC 5-63-230 B and C: Clarifies that decks and open porches close to property lines in single family homes, duplexes and townhouses constructed under the IRC and the International Building Code (IBC) do not have to have a fire-resistance rating.

13 VAC 5-63-210 M 8 and 9: Adds sprinkler incentives which permit the reduction of ratings for exterior walls and the common wall between townhouse units when all of the dwellings in a development are sprinklered.

13 VAC 5-63-210 M 15: Permits the use of a new standard for residential sprinkler systems.

13 VAC 5-63-210 M 21: Deleted a requirement in the IRC for the central station monitoring of a household fire alarm system serving as the smoke detection system for a house, while requiring the system to otherwise meet all requirements for smoke detectors.

13 VAC 5-63-210 M 22 and 23: Deleted requirements in the IRC which could be read as requiring the upgrading of existing buildings.

13 VAC 5-63-210 M 24: Clarifies that carbon monoxide detectors may be plug in, battery powered or hard wired.

13 VAC 5-63-210 M 34, 35 and 63 and 13 VAC 5-63-320 B and C 1 and C 3-6: Added references for the use of an appendix in both the IRC and the International Plumbing Code (IPC) for gray water and rain water recycling systems. In addition, reclaimed water systems are addressed in the IPC.

13 VAC 5-63-210 M 36 and 37: Added a requirement for a fire extinguisher to be provided in all new houses in the kitchen area.

13 VAC 5-63-210 M 38: Clarifies a requirements in the IRC for drainage on the outside of houses to only include those areas which may affect the foundation of the house.

13 VAC 5-63-210 M 42: Clarifies the crawl space requirements in the IRC to provide for an inspection gap for termites when a conditioned crawlspace uses insulation on the walls.

13 VAC 5-63-210 M 56 and 13 VAC 5-63-264(1): Deleted a requirement in both the IRC energy provisions and the International Energy Conservation Code (IECC) for a energy certificate to be posted on the electrical panel board.

13 VAC 5-63-210 M 57-59 and 13 VAC 5-63-264(2-4): Changes the requirement for duct testing in the IRC and the IECC to permit an inspection option as well as a testing option.

13 VAC 5-63-210 M 68: Deletes a new requirement in the 2009 IRC for wires in a crawlspace to have to be fastened on running boards to maintain the requirements of the 2006 IRC.

13 VAC 5-63-210 M 69: Deletes a new requirement in the 2009 IRC for most circuits in a house to have arc-fault protection to maintain the requirements of the 2006 IRC for just bedroom circuits to have arc-fault protection.

13 VAC 5-63-220 A: Deletes a requirement in the IBC for emergency communication equipment in high-rise buildings as it referenced the International Fire Code instead of Section 915 of the IBC, where the emergency communication equipment requirements of this regulation are located.

13 VAC 5-63-220 D-G and 13 VAC 5-63-245 M, Q and U: Updating the requirements of the IBC for stages and platforms to match what will be in the 2012 edition of the IBC.

13 VAC 5-63-220 M: Clarifies that the skirting requirements for manufactured homes have to meet both the requirements set out in this regulation and in the federal standards.

13 VAC 5-63-240 E and F: Retains the square footage threshold for when sprinklers are required in educational and mercantile occupancies to that required under the 2006 IBC rather than using lowered thresholds in the 2009 IBC.

13 VAC 5-63-240 L: The requirements for fire extinguishers were changed to remove an exception in the IBC for the omission of extinguishers in certain new occupancies when quick-response sprinklers are used.

13 VAC 5-63-240 O and 13 VAC 5-63-520 L: Adds requirements for carbon monoxide detectors to be installed in new residential buildings and provides criteria for the detectors to comply with.

13 VAC 5-63-240 Q: Retains the minimum size for a fire command center in a high-rise building to that specified in the 2006 IBC but adds a provision permitting the building official, after consultation with the fire official, to increase the size if necessary.

13 VAC 5-63-240 S, T and U: Clarifies the existing requirements for emergency communication equipment to assure only those buildings with construction characteristics which would block communication signals are required to install components necessary for adequate transmission.

13 VAC 5-63-245 B: Retains the allowance in the 2006 IBC for a reduction in egress width based on the presence of a sprinkler system rather than using the 2009 IBC language which deleted the allowance.

13 VAC 5-63-245 C, D and E: Clarifies the existing requirements for accessible exterior areas of rescue assistance using text which has been approved at the national level for the 2012 IBC.

13 VAC 5-63-245 S: Adds an allowance for the reduction of corridor widths in Group I-2 (nursing homes, hospitals, etc.) in areas where only wheelchairs, walkers or gurneys are used by persons otherwise capable of exiting.

13 VAC 5-63-245 V: Adds a requirement that stairways in new four-story or taller buildings be marked with a letter designation.

13 VAC 5-63-245 W: Changes the requirements in the 2009 IBC for providing illuminating strips along the bottom of stairways in all high-rise buildings to only requiring them in super high-rise buildings (those over 420 feet tall).

13 VAC 5-63-250 B: Clarifies the exemption in the proposed regulations from accessibility for raised areas for ceremonies in churches to include lowered areas and to require that the areas be located within an accessible story or mezzanine.

13 VAC 5-63-290 B: Adds an exception for footing requirements for small accessory buildings located adjacent to commercial buildings to match the footing exception already in the regulation for small accessory buildings adjacent to residential buildings.

13 VAC 5-63-310 D 1 and 2: Adds a provision and new table to the International Mechanical Code (IMC) to permit ventilation air rates in areas where intermittent smoking takes place to be less than that required for smoking lounges, but greater than in areas where no smoking is permitted.

13 VAC 5-63-310 D 4: Clarification of the refrigerant port cap locking provision to permit the omission of the locking cap if the area containing the refrigeration equipment is secure.

13 VAC 5-63-330 B: A reference is provided to the Virginia Statewide Fire Prevention Code (13 VAC 5-51) for requirements for the standardization of fire service elevator keys.

13 VAC 5-63-335: Amendments to the IBC to require the use of specialized swimming pool standards are deleted in deference to requirements in the IBC itself. The specialized standards were determined to cover many aspects of pool design outside of the scope of the regulation.

13 VAC 5-63-365: Additional requirements for accessibility for persons with disabilities contained in an appendix in the IBC are incorporated as part of the regulation.

13 VAC 5-63-490 F: A new provision is added to authorize the enforcing agency to take action to evacuate an unsafe building if necessary, similar to the current provisions for buildings determined to be unfit for human occupancy.

13 VAC 5-63-520 G, K and M: Removes provisions from the International Property Maintenance Code which fall outside of the scope of the regulation.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

On July 26, 2010, the Board of Housing and Community Development approved final regulations for the Virginia Industrialized Building Safety Regulations.

Family impact

Assess the impact of this regulatory action on the institution of the family and family stability.

The final regulations do not have an impact on the institution of the family and family stability.